



COPY OF PAPERS
ORIGINALLY FILED

PATENT
514413-3848

REMARKS

The Office Action required election from among:

- Group I: claims 1-6, 8-12 and 14-16, drawn to a nucleic acid molecule encoding a protein comprising the amino acid sequence of SEQ ID NO:2, a nucleic acid molecule comprising the nucleotide sequence of SEQ ID NO:1 or a part thereof, and a nucleic acid molecule which hybridizes with the nucleic acid molecules set forth above, a vector containing said nucleic acid molecule, a host cell containing said vector, and a process for the preparation of a protein;
- Group II: claim 7, drawn to a nucleic acid molecule which hybridizes with the nucleic acid molecule of claim 1 and is an oligonucleotide with a length of at least 15 nucleotides;
- Group III: claim 13, drawn to a protein encoded by the nucleic acid molecule of claim 1;
- Group IV: claims 17-23, drawn to a process for generating a transgenic plant cell, a plant containing said transgenic plant cell, and propagation material of said plant; and
- Group V: claims 24-26, drawn to a starch obtainable from the plant set forth above, and the use of the starch.

Group I, claims 1-6, 8-12 and 14-16, is elected with traverse for further examination in this application. Applicants retain the right to file divisional applications to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement, or at least reformulation to include claim 13 in Group I, are requested in view of the remarks herein.

Example 17 of Annex B Part 2 of the PCT Administrative Instructions (Appendix AI of the MPEP) provides:

Claim 1: Protein X

Claim 2: DNA sequence encoding protein X.

Expression of the DNA sequence in a host results in the production of a protein which is determined by the DNA sequence. The protein and the DNA sequence exhibit corresponding special technical features. Unity between claims 1 and 2 is accepted.

The claims of Groups I and III are clearly related. The polynucleotide in the Group I claims of encode the protein of Group III, and, according to Example 17, have unity of invention. Therefore, these claims should be searched and examined in the same application.

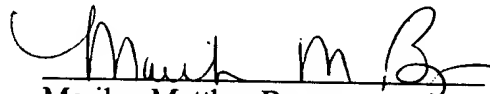
The result of the present restriction requirement is inefficiency and unnecessary expenditures by both the Applicants and the PTO and extreme prejudice to Applicants (particularly in view of GATT, a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially since the requisite showing of serious burden has not been made in the Office Action. These factors mitigate against the restriction as it currently stands.

Hence, it is evident that there is unity of invention in the pending claims, and in view of the foregoing, reconsideration and withdrawal of the requirement for restriction and favorable consideration of the claims on the merits are respectfully requested.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By:



Marilyn Matthes Brogan
Registration No. 31,223
(212) 588-0800